

JUN 10 1944

CHARLES ELMORE CROPLEY
CLERK

16 B

In the Supreme Court of the United States

OCTOBER TERM, 1943.

No. 889.

LENORE S. ROBINETTE,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS FOR
THE SIXTH CIRCUIT.

PETITION FOR REHEARING.

T. G. THOMPSON,
1786 Union Commerce Building,
Cleveland 14, Ohio,
Attorney for Petitioner.



In the Supreme Court of the United States

OCTOBER TERM, 1943.

No. 889.

LENORE S. ROBINETTE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES CIRCUIT COURT OF APPEALS FOR
THE SIXTH CIRCUIT.

PETITION FOR REHEARING.

*To the Honorable Harlan Fiske Stone, Chief Justice of the
United States, and the Associate Justices of the Su-
preme Court of the United States:*

The petitioner named above respectfully petitions this Court to grant a rehearing of and to reconsider her petition for a writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit; to reverse or vacate this Court's decision or judgment of May 22, 1944; to grant said former petition and to direct issuance of the writ. The petitioner respectfully represents to the Court in support of this petition, the following:

1. Copies of Respondent's brief in opposition to the former petition were served on May 12, 1944. As soon as possible thereafter petitioner's counsel prepared a reply brief. The Clerk of this Court received the required number of printed copies thereof on May 23, 1944. Also on that date copies were served upon counsel for the Re-

spondent. There was then, as was thought, not an untimely filing of the reply brief. But the petition having been denied the day before, petitioner considers that the Court's denial must have been influenced by its not having before it from the petitioner any answer to a certain case cited in the opposition brief. All other cases cited in the opposition brief had been anticipated and answered in petitioner's opening brief.

We refer to the Solicitor General's reference on page 6 of his brief to the case of *Commissioner v. Lane-Wells Co.*, No. 115, October Term, 1943, decided by this Court on February 14, 1944, Law. Ed. Advance Opinions, Vol. 88, No. 8, p. 455, and to the Solicitor's reliance upon that decision as an authority in point supporting his contention that the statute of limitations had not barred assessment of the income tax deficiency in controversy in the present case. We believe this Court would not have denied petition for the writ in the present case if it had noted, or had had before it at the time the statements made in petitioner's reply brief concerning the difference in essential facts between that case and the present case.

Petitioner therefore now respectfully requests that the Court receive said reply brief, copies of which have been held in the Clerk's office pending the filing of this petition, and that the Court consider all of the statements made in said reply brief as if copied in full herein. When said *Lane-Wells* decision, and the facts upon which it is based, are examined it will be seen that if the return filed in that case had contained all of the information needed for determining the tax there in dispute the Court would have held under its rule in *Germantown Trust Co. v. Commissioner*, 309 U. S. 304, that assessment of the deficiency was barred by the applicable statute of limitations. In the present case all of the needed information was shown on the return which was filed. See references on page 2 of the reply brief. Said *Lane-Wells* decision is therefore not an authority sup-

porting the Respondent's said contention. On the contrary, in its reasoning, it supports the contention of this petitioner.

2. More emphasis is here given also to that part of the decision of the Circuit Court of Appeals in the present case (R. 68) which deals with the question of liability of petitioner for payment of interest on the amount of the deficiency. Petitioner now as previously submits that said part of said decision is erroneous as indicated by the reasoning and the authorities cited in *Koppers Co. v. Commissioner*, 3 T. C.-No. 7, referred to on page 26 of petitioner's opening brief. That case was decided January 19, 1944 which was after the present case was decided by the Circuit Court. The petition herein should be granted in order that the decision of the Circuit Court respecting said interest question, which is of great importance in the administration of many taxation statutes, may be ruled upon by this Court. The Respondent's brief in opposition took no notice of the important disparity between these two decisions in this respect and because of this it is believed that this Court may not heretofore have noted such disparity.

It is now therefore respectfully urged, for all of the reasons stated in the former petition, in petitioner's brief in support thereof, in petitioner's said reply brief, and herein, that the Court reconsider and reverse or vacate its former decision or entry, grant the former petition and order that the writ of certiorari as prayed for be issued.

Respectfully submitted,

T. G. THOMPSON,

Counsel for Petitioner.

Certificate of Counsel.

I, counsel for the above named Lenore S. Robinette, certify that the foregoing petition for rehearing is presented in good faith and not for delay.

T. G. THOMPSON,

Counsel for Petitioner.

